

**BOROUGH OF WOODLAND PARK
ORDINANCE NO. 19-09**

**AN ORDINANCE OF THE MAYOR AND COUNCIL
OF THE BOROUGH OF WOODLAND PARK, PASSAIC COUNTY, NEW JERSEY,
SINGLE USE BAGS AT RETAIL ESTABLISHMENTS**

WHEREAS, the Borough of Woodland Park finds that 1 trillion plastic bags are used worldwide and less than 5% of that plastic is recycled; and

WHEREAS, the Borough finds that the United States alone uses over 380 billion plastic bags and wraps yearly, and that over 4 billion single use bags are used by New Jersey residents annually; and

WHEREAS, the Borough finds that up to 80% of ocean plastic pollution enters from land, injuring or killing 267 species and 100,000 marine animals worldwide annually; and

WHEREAS, the Borough finds that numerous studies by government and environmental groups have found that use of single-use plastic carryout bags poses serious public health and environmental risks, causing damage to and contamination of public waterways and ecosystems that pollute drinking water, threaten wildlife, block storm drains and negatively impact the ecosystem and food chain as a whole; and

WHEREAS, the Borough finds that single-use plastic waste degrades neighborhoods and constitutes litter in parks and sewer systems and the Passaic, and Peckman Rivers and their tributaries; and

WHEREAS, the Borough finds that single-use plastic bags are now regulated in sixty countries, four major cities in the United States, as well as hundreds of towns throughout the United States and twenty-five in New Jersey as of this date; and

WHEREAS, the Borough finds that it is time for the Borough to take a stand and do its part to protect our oceans and other waterways and natural resources from the problems associated with non-degradable plastic bag pollution; and

WHEREAS, the Borough finds that it is in the best interest of the Borough to regulate the use of single-use plastic bags and paper bags by retail establishments and promote the use of reusable bags within the Borough;

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF WOODLAND PARK, COUNTY OF PASSAIC, STATE OF NEW JERSEY AS FOLLOWS:

Chapter 25-3, SINGLE USE BAGS AT RETAIL ESTABLISHMENTS, is hereby created and added in its entirety to the Code of the Borough of Woodland Park as follows:

§ 25-3.1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

COMPLIANT BAGS

Recyclable paper carry-out bags and reusable bags as follows:

- A. A recyclable paper carry-out bag is a paper bag that meets all of the following minimum requirements:
 - 1. It is one hundred percent (100%) recyclable overall and contains a minimum of forty percent (40%) post-consumer recycled material and can be composted.
 - 2. It displays the words “recyclable” and/or “reusable” in a visible manner on the outside of the bag.

B. A reusable bag means a bag with handles made of cloth or other washable fabric or is otherwise durable that is specifically designed and manufactured for multiple use and meets the following additional requirements:

1. It is machine washable or is made from a material that can be cleaned or disinfected; or
2. It is a durable bag that is specifically designed and manufactured for multiple use.

CUSTOMER

Any person purchasing goods or services from a retail establishment.

OPERATOR

Any person in control of, or having the responsibility for, the operation of a retail establishment, which may include, but is not limited to, the owner of the retail establishment.

POST-CONSUMER RECYCLED MATERIAL

A bag constructed of a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. "Post-consumer recycled material" does not include materials and by-products generated from, and commonly reused within, an original manufacturing and fabrication process.

PRODUCE BAG OR PRODUCT BAG

A very thin bag without handles used exclusively to carry produce, meats, or other food items to the point of sale inside a retail establishment or, for reasons of public health and safety, to prevent such food items from coming into direct contact with other purchased items.

RECYCLABLE

Material that can be sorted, cleansed and reconstituted using available recycling collection programs for the purpose of reusing the altered, incinerated, converted or otherwise thermally destroyed solid waste generated therefrom. The material must be recycled in a manner that is environmentally effective, economically feasible and safe for employees as deemed feasible by the Borough of Woodland Park.

RETAIL ESTABLISHMENT

Any store or commercial establishment that sells perishable or nonperishable goods, including, but not limited to, clothing, food and personal items, directly to the customer and is located within or doing business within the geographical limits of the Borough of Woodland Park. Retail establishments include: business establishments that generate sales or use-tax; drug stores; pharmacies; supermarkets; grocery stores; convenience food stores; food marts; or other commercial establishments (i.e. restaurants and take-out food establishments or any other business that prepares and sells prepared food to be eaten on or off its premises). This definition also includes commercial establishments that sell clothing, hardware, or any other non-perishable goods. It does not include nonprofit charitable re-users as defined in Section 501(c)(3) of the Internal Revenue Code of 1986, or a distinct operating unit or a division of the charitable organization that reuses and recycles donated goods or materials and receives more than 50% of its revenue from the handling and sale of those donated goods and materials.

SINGLE-USE PLASTIC CARRY-OUT BAG

Any bag made predominantly of plastic derived from either petroleum or a biologically based source, such as corn or other plant sources that is provided by an operator of a retail establishment to a customer at the point of sale. The term includes compostable and biodegradable bags but does not include reusable bags, produce bags, or product bags. This definition specifically exempts the following from the category of "single use plastic carry-out bags":

- A. Bags provided by operators and used by consumers inside retail establishments to:

1. Package bulk items, such as fruit, vegetables, nuts, grains, candies or small hardware items; or
 2. Contain or wrap frozen foods, meat or fish, whether packaged or not; or
 3. Contain or wrap flowers, potted plants, or other items where dampness may be an issue; or
 4. Contain unwrapped prepared foods or bakery goods; or
 5. Pharmacy prescription bags.
- B. Newspaper bags, door-hanger bags, laundry and/or dry cleaning bags, or bags sold in packages containing multiple bags intended for use as food storage bags, garbage bags, yard waste bags or pet waste bags.

§ 25-3.2 Single-use plastic carry-out bags prohibited.

No retail establishment within the Borough of Woodland Park shall provide any single-use plastic carryout bags, as defined in §25-3.1, above, to any customer at the checkout point or cash register, point of sale or other point of departure or point of distribution for the purpose of transporting products or goods out of the business or store.

§25-3.3 Availability and Use of Compliant Bags to Customers.

- A. All Retail Establishments shall make available to customers, for a fee, compliant bags, as defined in §25-3.1, above, for the purpose of carrying goods or other materials away from the point of sale, subject to the provisions of this Chapter. The fee charged shall be reflected in the sales receipt.
- B. No provision in this Chapter prohibits customers from using bags of any type that they choose to bring to a retail establishment themselves, in lieu of using bags available for a fee from the retail establishment, or from carrying away goods that are not placed in a bag.

§ 25-3.4 Fees for provision of compliant bags.

- A. All retail establishments shall make recyclable paper carry-out bags available to customers upon request for a fee of at least \$0.10 but not more than \$0.25 per bag if customers choose not to bring their own reusable bag.
- B. A retail establishment may provide customers with a reusable bag, as defined herein, for a fee of at least \$0.10.
- C. All monies collected by retail establishments for the fees established herein shall be retained by the retail establishment.

§ 25-3.5. Use of reusable bags encouraged.

All retail establishments must provide customers with compliant bags, upon request, if a customer fails to bring his or her own bags, in accordance with the fee structure set forth in §25-3.4, above. A retail establishment may choose, in its discretion, to provide a credit to customers who choose to bring their own bags.

§ 25-3.6. Exempt customers.

All retail establishments must provide at the point of sale, free of charge, compliant bags, to any customer who participates in, or is a beneficiary of, any United States government (Federal) welfare program, or any local or Passaic County welfare assistance program, or any New Jersey State welfare program, including but not limited to the New Jersey Supplemental Nutrition Assistance Program (SNAP) or the New Jersey State Supplemental Security Income Program (SSI). Such customers must provide documentation proving that they participate in, or are beneficiaries of such programs.

§ 25-3.7. Outreach and education.

- A. The Borough of Woodland Park shall assist operators of retail establishments by referring them to appropriate municipal websites with information and to retail associations, unions or other organizations that have educational materials concerning the benefits of reusable bags rather than recyclable paper carry-out bags.
- B. All retail establishments shall be strongly encouraged to educate their staff in ways to promote the use of reusable bags and to post signs encouraging customers to use reusable bags rather than recyclable paper carry-out bags.
- C. All retail establishments shall be strongly encouraged to educate the public on plastic bag and plastic film recycling and to offer a take-back program.

§ 25-3.8. Enforcement.

The Borough's Code Enforcement Officer, or his or her designee, along with Inspectors from the Borough's current Health Services Provider, shall have the responsibility of enforcement of this ordinance and may promulgate reasonable rules and regulations in order to enforce its provisions, including but not limited to investigating violations and issuing fines.

§ 25-3.9. Violations and penalties.

- A. Any retail establishment that violates or fails to comply with this ordinance or the rules and regulations promulgated therefrom, after an initial written warning notice has been issued, shall be liable for a violation of this ordinance.
- B. If a retail establishment commits subsequent violation(s) after the issuance of an initial written warning notice, the following penalties shall be imposed and shall be payable by the operator of the retail establishment upon conviction thereof:
 - 1. A fine not exceeding \$100 for the first violation after the written warning notice is given;
 - 2. A fine not exceeding \$200 for the second violation after the written warning notice is given; and
 - 3. A fine not exceeding \$500 for the third and any subsequent violations after the written warning notice is given.
- C. A separate offense shall be deemed committed on each day during or on which a violation occurs.

§ 25-3.10. Reporting.

No later than one year after the effective date of this ordinance, and annually thereafter, the Code Enforcement Officer, with support by the Borough's Superintendent of Public Works and the Borough's current Health Services Provider shall report to the Borough Council regarding the progress of the reduction of the use of carry-out bags, which may include the following where information and data are available:

- A. The amount of carry-out bags in the residential waste and recycling streams;
- B. The amount of carry-out bags identified as litter on the streets, sidewalks and in parks within the Borough of Woodland Park;
- C. The amount of carry-out bags found in Borough storm drains;
- D. The number of warning notices or notices of violation issued pursuant to this ordinance; and
- E. Any estimated cost savings for the Borough attributable to carry-out bag reduction; this may include but is not limited to reduced contamination of the residential recycling stream and reduction in flooding or combined sewer overflows.

SECTION 2. If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof.

SECTION 3. All ordinances or parts of ordinances of the Borough of Woodland Park heretofore adopted that are inconsistent with any of the terms and provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. This ordinance shall take effect six (6) months from the date of its final passage, approval and publication as provided by law.

INTRODUCED: August 17, 2019

ADOPTED: September 4, 2019